

Remarks

Status of the Claims

Claims 1-38 are pending in the present application. Claims 7, 14-18, 23, 28-30 and 37-38 have been withdrawn from consideration. Claim 1 has been amended for clarity.

Please note that the present amendment to Claim 1 was previously presented in Applicants' "Amendment and Reply Under 37 C.F.R. § 1.116," filed on August 16, 2004. However, in the Advisory Action dated September 21, 2004, the Examiner asserted that the amendment to Claim 1 raised a new issue that would require further consideration and/or search, and therefore the Examiner did not enter the amendment. Accordingly, Applicants have presented the amendment again herein, along with a timely filed Request for Continued Examination in compliance with 37 C.F.R. § 1.114. No new matter has been added by this amendment and entry of the amendment is respectfully requested.

Based on the above amendment and the following remarks, Applicants respectfully request that the Examiner reconsider and withdraw the outstanding rejections.

The Advisory Action dated September 21, 2004

Applicants respectfully disagree with the Examiner's assertion, in the Advisory Action dated September 21, 2004, that the proposed amendment to Claim 1 failed to place the claims in better form for appeal and that the proposed Claim 1 amendment raised a new issue that would have required further consideration and/or search. The example of proposed claim language given by the Examiner states

"the latch is releasably engageable with the proximal end of the capture element (emphasis supplied)."

Prior to the proposed amendment, the corresponding language in Claim 1 stated, in part

. . . latch . . . operable to releasably engage the proximal end of the capture element . . . (emphasis supplied).

Applicants contend that the difference between the phrase “releasably engageable with” and the phrase “operable to releasably engage” is negligible, and that the difference is certainly insufficient to raise a new issue that would require further consideration and/or search. More particularly, the proposed amendment simplifies the claim language for appeal. For the Examiner’s convenience, the entire proposed amended portion of Claim 1 is copied below.

at least one latch fixed to the guidewire distal region [in a location such that the latch is operable to releasably engage] and being releasably engageable with the proximal end of the capture element to temporarily retain the capture element in the deployed configuration.

Claim Rejections under 35 U.S.C. § 102(b)

Claims 1-6, 8-13, 19-22, 24-27 and 31-36 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Daniel *et al.* (6,001,118), hereinafter “Daniel.” The Examiner contends that all the limitations of the claims are disclosed in Daniel in at least Figs. 19 and 23B. However, Daniel fails to teach each and every element recited in claim 1. While the Examiner’s contends that Daniel’s item 288 may be considered a latch, the item 288 is not the latch element required by applicant’s claims. In particular, Daniel contains no explicit or inherent teaching of a latch element, or item 288, being fixed to a guidewire, as required by claim 1, in part:

. . . at least one latch fixed to the guidewire distal region and being releasably engageable with the proximal end of the capture element . . . (emphasis supplied)

Daniel's item 288 is described variously as a movable plunger, a movable collar, or a slidable collar (see col. 11, line 51 - col. 12, line 33). Collar 288 is not fixed to any element that corresponds to a guidewire, as required in Applicants' claim 1. Rather, Daniel teaches that collar 288 slides within tube 286, and slides over core wire 284 (*ibid.*).

Collar 288 is also is not releasably engageable with the proximal end of a capture element, as is required in claim 1. Instead, Daniel teaches that collar 288 is fixedly coupled to a capture element, specifically to proximal end 302 of expandable member 290 (*ibid.*). Therefore, in view of the above arguments, which are directed to structural limitations of claim 1, Daniel fails to teach each and every element recited in claim 1.

All other rejected claims, specifically claims 2-6, 8-13, 19-22, 24-27 and 31-36 depend directly or indirectly from claim 1 and are patentable for at least the reasons discussed above regarding claim 1.

In view of the above amendments and remarks, Applicants respectfully request that the Examiner reconsider the outstanding rejections and that they be withdrawn.

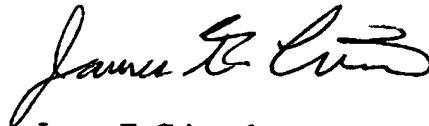
Appl. No.: 09/922,996
Applicant: DOUK, *et al.*
Atty. Docket: P563 CIP 2

Conclusion

Applicants believe that a full and complete response has been made to the outstanding Final Office Action and the Advisory Action and, as such, the present Application is in condition for allowance. Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Date: October 14, 2004

Respectfully submitted,



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